

Abuse of the Dominant Position by Prohibited Pricing Activities

Abstract

This thesis analyzes selected pricing practices of dominant undertakings namely predatory pricing, margin squeeze and excessive pricing. These practices may, under certain circumstances, constitute an abuse of the dominant position. The aim of the thesis is to focus on problematic aspects of each of these practices, on explanation of various legal and economic tests used to prove that certain pricing policy constitutes an abuse of dominant position and on the description of conditions that have to be met in order to consider such practice contrary to the competition law of the Czech Republic and the European Union.

The thesis is composed of four chapters. In Chapter One a brief introduction to the competition law itself and to the analyzed matter is given. Chapter Two describes basic terminology used when dealing with cases of abuse of a dominant position such as basic legal concept of the abuse itself, definition of an undertaking and a competitor according to the EU law and the Czech law respectively, delimitation of a relevant market and finally definition of a dominant position.

Chapter Three is oriented on the selected pricing practices of dominant undertakings. This Chapter is subdivided into three parts each of which is dealing with different pricing practice – predatory pricing, margin squeeze and excessive pricing. These parts are further divided in order to focus on certain aspects relevant to the chosen practice. Each part follows the same structure and is introduced with a list of applicable law. Then, a definition of the pricing practice is closely examined with regard to the relevant judicial decisions and decisions of the competition law enforcers. Various and rather problematic aspects of each definition of selected pricing practice are further discussed. A conclusion regarding each pricing practice is reached in the end of each part.

Chapter Four is a conclusion to the analysis of three different pricing practices of dominant undertakings. It is concluded that price is sensitive information for both customers of a dominant undertaking and consumers. Therefore, it is essential in liberal economies to maintain transparent and undistorted pricing mechanisms. Determining whether

certain pricing practice of a dominant undertaking constitutes an abuse of dominant position is a very complex issue and requires substantial knowledge of law and economics. Competition law enforcers use various economic and law tests in order to conclude whether certain practice of a dominant undertaking is correct or abusive. In the end, it is said that the main aim of this thesis, which was to present an actual legal view of the competition law enforcers in the Czech Republic and on the EU level on chosen pricing practices, has been reached.